

PT 04-36

Tax Type: Property Tax

Issue: Educational Ownership/use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS**

**NORTH CENTRAL REGIONAL
EDUCATIONAL LABORATORY,
APPLICANT**

v.

**ILLINOIS DEPARTMENT
OF REVENUE**

**No. 02-PT-0052
(02-22-0041)
P.I.N: 08-06-404-014**

RECOMMENDATION FOR DISPOSITION

APPEARANCES: Mr. James E. Dickett, of Romanoff & Dickett, on behalf of the North Central Regional Educational Laboratory (the “Applicant”); Mr. Robert G. Rybica, Assistant State’s Attorney for the County of DuPage, on behalf of the DuPage County Board of Review (the “Board”); Mr. Gary Stutland, Special Assistant Attorney General, on behalf of the Illinois Department of Revenue (the “Department”).

SYNOPSIS: This matter raises the issue of whether a 30,000 square foot leasehold identified by DuPage County Parcel Index Number 08-06-404-014 (the “subject leasehold”) was “leased or otherwise used with a view to profit,” in violation of 35 ILCS 200/15-35 and/or 35 ILCS 200/15-65(a), during the 2002 assessment year. The underlying controversy arises as follows:

The applicant filed a Petition for Tax Exemption with the Board on February 22, 2002. Dept. Group Ex. No. 1. The Board reviewed the applicant’s Petition and recommended to the Department that the requested exemption be granted. *Id.* The Department, however, denied the requested exemption *in toto* under terms of its initial

determination herein, issued by the Office of Local Government Services on July 5, 2002, finding that the subject property is not in exempt ownership and not in exempt use. *Id.*

The applicant filed an appeal to this denial and later presented evidence at a formal evidentiary hearing, at which the Department and the Board also appeared. Following a careful review of the record made at that hearing, I recommend that the Department's initial determination be reversed.

FINDINGS OF FACT:

1. The Department's jurisdiction over this matter and its position herein are established by the admission of Dept. Group Ex. No. 1.
2. The Department's position in this matter is that the subject leasehold is not in exempt ownership and not in exempt use. *Id.*
3. The subject leasehold is situated within a larger building that contains the Naperville campus of Northern Illinois University ("NIU").¹ Applicant Gr. Ex. No. 1, Documents D, E; Tr. pp. 10, 20-21.
4. The building, itself, is identified by DuPage County Parcel Index Number 08-06-404—012² and owned in fee simple by the Illinois Development Finance Authority (the "Authority").³ Applicant Gr. Ex. No. 1, Documents A, B.

1. NIU is a public university created pursuant to the Northern Illinois University Law, 110 ILCS 685/30-1, *et seq.* Administrative Notice.

2. The DuPage County Assessor created a separate parcel index number in order to differentiate the fee interest held by the Authority from the leasehold interest held by the applicant. The exempt status of this leasehold, identified by DuPage County Parcel Index Number 08-06-404-014, is the only source of controversy herein. Tr. p. 51.

3. The Authority is a political subdivision of the executive branch of Illinois government that is organized as a body politic and corporate pursuant to the Illinois Development Finance Authority Act, 20 ILCS 3505/1, *et seq.* Administrative Notice.

5. The Authority obtained a property tax exemption for its fee interest in the building under terms of the Department's determination in Docket Number 01-22-85, issued by the Office of Local Government Services on October 12, 2001. Applicant Gr. Ex. No. 1, Document A; Administrative Notice.
6. The Authority leases the building to NIU under terms of a "Master Lease Agreement" dated February 1, 1999. Applicant Gr. Ex. No. 1, Document C.
7. Pursuant to authority granted to NIU under the "Master Lease Agreement," NIU subleased the subject leasehold, which occupies a 30,000 square foot area on the second floor of the building, to the applicant under the terms of an "Office Lease Agreement" (the "Office Lease") dated December 20, 1999. Applicant Gr. Ex. No. 1, Document D.
8. The Office Lease contains the following relevant terms and conditions:
 - A. The lease is between NIU as the lessor and the applicant as lessee;
 - B. The term of the lease shall run for a period of ten years, commencing February 1, 2001;
 - C. The lessee shall use and occupy the subject leasehold strictly for general office purposes throughout the lease term;
 - D. The lessee shall pay to the lessor annual base rentals in a sum equaling \$19.90 per square foot;
 - E. The lessee shall pay such rentals in twelve equal, monthly installments no later than the first day of each calendar month; and,

F. The lessee shall also pay, as additional rent, its pro-rata share of any operating expenses, inclusive of real estate taxes, that are over and above the lessor's actual operating expenses for the first year of the lease term.

Applicant Gr. Ex. No. 1, Document D.

9. The applicant is an Illinois not-for-profit corporation that, per its Articles of Incorporation, is organized for the following purposes:

- A. Providing educational research and development to schools, school districts and other educational organizations and agencies in the Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio and Wisconsin;
- B. Conducting research, symposia and scientific programs that benefit the education community as a whole; and,
- C. Publishing and disseminating reports of such research.

Applicant Gr. Ex. No. 1, Document G.

10. The applicant's by-laws state, in relevant part, that its daily business affairs shall be managed by a board of directors consisting of various representatives of the education community, specifically including parents, teachers, representatives from the Teacher Education Council of State Colleges and Universities, and further, including the chief state school officers or state officials responsible for public education in the states of Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio and Wisconsin. Applicant Gr. Ex. No. 1, Document F.

11. The applicant operates on a fiscal year that runs from December 1 through November 30. Applicant Gr. Ex. No. 1, Document H.

12. An audited financial statement reveals that the applicant derived revenues from the following sources during the fiscal year ending November 30, 2002:

SOURCE	AMOUNT	% OF TOTAL
REVENUES		
Federal Contracts	\$ 8,447,741.00	67%
Federal Grants	\$ 2,810,206.00	22%
Small Contracts and Grants	\$ 669,081.00	5%
Other grants	\$ 555,114.00	4%
Interest Income	\$ 35,958.00	0%
Total Revenues	\$ 12,518,100.00	100%

Id.

13. The federal contract revenues and grants included the following:

- A. A fixed reimbursement contract, in the total amount of \$43,650,341.00,⁴ with the United States Department of Education Office of Educational Research and Improvement, that is to expire in December, 2005;
- B. A grant from the United States Department of Education under the Dwight D. Eisenhower Regional Mathematics and Science Education Consortia Program, in the total amount of \$7,533,200.00, that is to expire in September, 2005;

4. The grant and contract amounts shown in this Finding exceed those reported above because the revenues reported on the financial statements only reflect the specific portions of the grants and contracts that the applicant actually realized during its 2002 fiscal year. Other portions of these grants and/or contracts were reported on the financial statements for the fiscal year or years in which the applicant realized the particular grant and contract revenues. Applicant Ex. No. 1H; Tr. pp. 24-25.

C. A grant from the United States Department of Education under the Technology and Technical Assistance Consortia Program, in the total amount of \$4,970,000.00, that also is to expire in September, 2005; and,

D. A grant from the United States Department of Education under the FIE Earmark Grant Awards Program, in the total amount of \$921,000.00, that will expire in January, 2005.

Id; Applicant Ex. Nos. 2, 3, 4.

14. The audited financial statement also reveals that the applicant incurred the following expenses during the fiscal year ending November 30, 2002:

SOURCE	AMOUNT	% OF TOTAL
Expenses		
Salaries	\$ 4,073,489.00	32%
Benefits	\$ 1,022,261.00	8%
Consultants & Subcontractors	\$ 3,242,391.00	25%
Travel	\$ 620,842.00	5%
Meetings	\$ 438,646.00	3%
Production	\$ 1,078,742.00	8%
Communications	\$ 578,947.00	5%
Supplies, Materials & Registration	\$ 177,322.00	1%
Facilities	\$ 1,166,912.00	9%
Other Costs	\$ 329,088.00	3%
Total Expenses	\$ 12,728,640.00	100%

Applicant Gr. Ex. No. 1, Document H.

15. The Internal Revenue Service determined that the applicant qualifies for tax exempt status under Section 501(a) of the Internal Revenue Code, as an organization described in Section 501(c) (3) thereof, on December 11, 1985. Applicant Ex. No. 14.
16. The Department issued applicant an exemption from Illinois use and related sales taxes on grounds that it “is organized and operated exclusively for charitable purposes,” within the meaning of Section 3-5(4) of the Use Tax Act (35 ILCS 105/1-1, *et seq.*), on December 14, 2001. Applicant Gr. Ex. No. 1, Document K; Administrative Notice.
17. The applicant has approximately 90 employees, many of whom are former teachers and/or hold degrees in education-related subjects. Approximately 25 to 30 of Applicant’s employees have Ph.D.’s in education, with additional employees actively enrolled in Ph.D. programs. Tr. pp. 22, 60-61.
18. Most of the applicant’s operational activities are directed toward enhancing education, specifically providing research and development services and disseminating written educational enhancement materials to schools and other educational organizations. Applicant Gr. Ex. No. 1, Documents F, G, H; Applicant Ex. Nos. 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13; Tr. pp. 58-65.
19. Most of the funding for the applicant’s research and development programs comes from its contract with, or the grants it receives from, the United States Department of Education. Applicant Gr. Ex. No. 1, Document H; Applicant Ex. Nos. 4, 5, 6; Tr. pp. 24-28.

20. Some aspects of this federally funded research and development pertains to improving math and science curricula; other aspects pertain to adult literacy and teacher development. Applicant Ex. Nos. 4, 5, 6; Tr. pp. 24-28.
21. The institutions that utilize the applicant's publications and other resources include the University of Illinois at Springfield, the Michigan Department of Education, the Oklahoma State Regions for Higher Education, the Florida Bible Christian School, National Lewis University, Abbott Middle School, California State University at Chico, the University of Minnesota, Illinois State University, Flossmoor School District No. 161, the Indiana Department of Education, West Chicago Elementary District No. 33 and numerous other public schools, public universities and private educational institutions.⁵ Applicant Ex. Nos. 8, 13; Tr. p. 58.
22. The applicant created approximately 41 different written educational publications and other related resources during 2002.⁶ Applicant Ex. Nos. 9, 11, 12; Tr. pp. 31-34, 37-41.
23. The applicant distributed a total of 29,885 separate resource items free of charge to schools and other educational organizations. Applicant Ex. No. 8; Tr. pp. 32-37, 55-57, 70.
24. The resource items that the applicant distributed for free included, but were not limited to:
- A. 1,172 copies of a handbook designed to guide schools in their use of technology;
 - B. 1,584 copies of a teacher's guide for that handbook;

5. For an exhaustive listing, *see*, Applicant Ex. No. 13.

6. The information in this and all subsequent Findings of Fact shall pertain to the 2002 assessment year unless context clearly specifies otherwise.

C. 1,588 copies of a brochure outlining various school reform strategies;

D. 1,394 copies of *Learning Point*, a quarterly magazine for educators.

Applicant Ex. Nos. 9, 10, 11, 12, 13; Tr. pp. 31-34, 37-41.

25. The applicant also maintained an online Resource Center comprised of a specialized library devoted to educational materials. More than one million visitors utilized this library for free research-based information in 2002. Applicant Ex. No. 7; Tr. pp. 28-29.

26. In addition to its online library, the applicant maintained a conventional research library, containing books, periodicals, and other educational resources, at the subject leasehold. The applicant provided free library services to anybody who inquired about a resource, including school district officials, teachers, and students, at this library. Applicant Gr. Ex. No. 1, Document D; Tr. 20-22.

27. The applicant also provided free educational enhancement services directly to schools. These services included intensive site visits, where members of the applicant's staff actually went into schools for periods of between six months and one year for purposes of conducting observations and consultations that would enable them to develop plans to improve the school's performance. Applicant Ex. Nos. 9,10; Tr. pp. 59, 64-65.

28. The applicant's on-site services also included consulting with and instructing various school officials in methods of integrating computer and other technologies into their curricula in ways that would enable teachers to teach more effectively and students to improve their learning skills. *Id.*

29. The applicant also collaborated directly with school district superintendents on policy issues such as “No Child Left Behind.” Applicant’s Exhibit 11; Tr. pp. 62, 64-65.
30. The applicant also helped schools analyze and interpret their school data regarding grades and standardized testing to determine where the schools were lacking in terms of student achievement and what other resources are available to bring-up the students’ scores. Tr. pp. 61-62.
31. The applicant used the subject leasehold as office space for its employees to work on the written materials and other related services that it distributed to the schools and other educational organizations that utilized them. It also held free conferences that featured speakers and other resources that could be utilized by educators or education officials at this leasehold. Applicant Gr. Ex. No. 1, Document I; Tr. pp. 20-22, 46-47, 63-64.

CONCLUSIONS OF LAW:

I. CONSTITUTIONAL AND STATUTORY CONSIDERATIONS

Article IX, Section 6 of the Illinois Constitution of 1970 provides as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

Pursuant to Constitutional authority, the General Assembly enacted Sections 15-35 and 15-65(a) of the Property Tax Code (35 **ILCS** 200/1-1, *et seq.*) which, in relevant part, provide for exemption of the following:

200/15-35. Schools.

All property donated by the United States for school purposes and all property of schools, not sold or leased or

otherwise used with a view to profit, is exempt, whether owned by a resident or non resident of this State or by a corporation incorporated in any state of the United States. Also exempt is:

(b) property of schools on which the schools are located and any other property of schools used by the schools exclusively for school purposes, including, but not limited to, student residence halls, dormitories and other housing facilities for students and their spouses and children, staff housing facilities, and school-owned and operated dormitory or residence halls occupied in whole or in part by students who belong to fraternities, sororities, or other campus organizations.

(c) property donated, granted, received or used for public school, college, theological seminary, university, or other educational purposes, whether held in trust or absolutely.

35 ILCS 200/15-35.

200/15-65. Charitable purposes

15-65. Charitable purposes. All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

(a) Institutions of public charity.

35 ILCS 200/15-65(a).

II. THE BURDEN OF PROOF AND RELATED CONSIDERATIONS

Property tax exemptions are inherently injurious to public funds because they impose lost revenue costs on taxing bodies and the overall tax base. In order to minimize the harmful effects of such lost revenue costs, and thereby preserve the Constitutional and statutory limitations that protect the tax base, Sections 15-35 and 15-65 are, like all other statutes, to be strictly construed in favor of taxation, with all doubts and debatable

questions resolved against the applicant. People Ex Rel. Nordland v. the applicant of the Winnebago Home for the Aged, 40 Ill.2d 91 (1968); Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987). Furthermore, the applicant bears the burden of proving that the property it is seeking to exempt falls within the appropriate statutory provision by a standard of clear and convincing evidence. *Id.*

The clear and convincing standard is met when the evidence is more than a preponderance but does not quite approach the degree of proof necessary to convict a person of a criminal offense. Bazydlo v. Volant, 264 Ill. App.3d 105, 108 (3rd Dist. 1994). Thus, “clear and convincing evidence is defined as the quantum of proof which leaves no reasonable doubt in the mind of the fact finder as to the veracity of the proposition in question.” In the Matter of Jones, 285 Ill. App.3d 8, 13 (3rd Dist. 1996); In re Israel, 278 Ill. App.3d 24, 35 (2nd Dist. 1996); In re the Estate of Weaver, 75 Ill. App.2d 227, 229 (4th Dist. 1966).

III. LEASE FOR PROFIT

Sections 15-35 and 15-65 both bar exemption where the property is “leased or otherwise used with a view to profit.” 35 ILCS 200/15-35, 15-65. Real estate is “leased or otherwise used with a view to profit” when it is either: (1) rented for a specific non-exempt use, such as weddings or other private social functions (Rogers Park Post No. 108 v. Brenza, 8 Ill.2d 286 (1956)); or, (2) used primarily to produce income for its owner, irrespective of whether the owner applies all of the rental income to further an exempt purpose. Children’s Development Center, Inc. v. Olson, 52 Ill.2d 332, 336 (1972). *See also*, Victory Christian Church v. Department of Revenue, 264 Ill. App.3d 919, 922 (1st Dist. 1988); People ex. rel. Baldwin v. Jessamine Withers Home, 312 Ill. 136, 140

(1924); Salvation Army v. Department of Revenue, 170 Ill. App.3d 336, 344 (2nd Dist. 1988). However, “it is the primary use to which the property is devoted *after* the leasing which determines whether the tax-exempt status continues.” Children’s Development Center, Inc. v. Olson, *supra* at 336 (emphasis added). *See also*, Victory Christian Church, *supra* at 922. Thus, “if the primary use is for the production of income, that is, ‘with a view to profit,’ the tax exempt status is destroyed.” Children’s Development Center, Inc. v. Olson, *supra* at 336. However, “if the primary use is not for the production of income but to serve a tax-exempt purpose, the tax-exempt status of the property continues even though the use may involve an incidental production of income.” *Id.*; Victory Christian Church, *supra* at 922.

In order to apply this test, “one must look first to see if the owner of the real estate is entitled to exemption from property taxes.” Victory Christian Church, *supra* at 922. If the owner is so exempt, then “one may proceed to examine the use of the property to see if the tax exempt status continues or is destroyed.” *Id.* There is no question that the Authority, which owns the building that contains the subject leasehold, qualifies as a tax-exempt entity by virtue of its status as an instrumentality of State government.⁷ Nor is there any dispute that NIU, which leases that building from the Authority, also qualifies as a tax-exempt entity by virtue of its status as another instrumentality of the State.

Neither NIU nor the Authority is the applicant herein. Nor is the property interest held by either of these entities at issue in this case. Both of those interests pertain to the building as a whole, which was exempted from real estate taxation under terms of the Department’s determination in Docket Number 01-22-85. Therefore, the sole source of

controversy herein is whether the applicant, itself, which leased the subject leasehold from NIU throughout the tax year currently in question, 2002, used that leasehold primarily to serve one or more specifically identifiable tax exempt purposes.

The first step in resolving this inquiry is to determine whether the applicant, itself, qualifies as a tax-exempt entity, such as a duly constituted “school,” or “institution of public charity.” A “school,” is defined for property tax purposes as “a place where systematic instruction in useful branches is given by methods common to schools and institutions of learning, which would make the place a school in the common acceptance [sic] of the word.” People v. Trustees of Schools, 364 Ill. 131 (1936); People ex rel Brenza v. Turnverein Lincoln, 8 Ill.2d 188 (1956). Thus, the Section 15-35 exemption is mostly reserved for those entities that “offer traditionally accepted academic subjects in the context of an established academic environment.” Chicago & Northeast Illinois District Council of Carpenters v. Illinois Department of Revenue, 293 Ill. App.3d 600, 616 (1st Dist. 1997), *leave to appeal denied*, April 1, 1998.

The applicant, itself, fails to qualify as a “school” in the legal sense because it does not operate in the traditional context of an established economic environment, such as might be found at a public school or university. It does, nevertheless, distribute publications and offer other related services that are of direct benefit to those entities that *do* qualify as schools. In this sense, its operations are analogous to those of the applicant in Association of American Medical Colleges v. Lorenz, 17 Ill.2d 125 (1959) (“Lorenz”), wherein the court held in favor of exempting property that was used to provide various services for a consortium of duly certified medical schools.

7. Property owned by the State of Illinois and its instrumentalities are exempt from real estate taxation under Section 15-55(a) of the Property Tax Code, which states in relevant part, that “[a]ll

These services included publishing a journal and a directory showing admission requirements to member medical schools, compiling student information designed to assist medical schools in developing programs of instruction, sponsoring admission tests and teaching institutes, evaluating students intellectual and personality characteristics as well as their relationship to scholastic and professional performance, maintaining a library of motion picture films for use by medical schools, performing various placement functions, appraising curricula of member medical schools and colleges and joining in the accreditation of all medical schools in the United States via its inspection and liaison committee. *Id.* at 126-127.

The statute at issue in Lorenz provided that “property of schools” used “by them exclusively for school purposes” was exempt from real estate taxation, as was “all property used for public school, college, seminary, university, or other public educational purposes.” Ill. Rev. Stat. 1957, ch. 120, ¶ 500, cited in Lorenz, *supra* at 127-128. The county collector argued the Association did not qualify as an exempt owner under this provision because the Association was not a school *per se*. *Id.* The court, however, rejected the collector’s argument on grounds that the class of properties to be exempted under the statute included not only conventional “school” facilities, but also, school administration buildings and other properties used for similar school-related purposes. *Id.*

The court then noted that the Association performed functions that were “identical to those which would afford exemption if conducted separately by member institutions.” *Id.* at 129. Therefore:

property belonging to the State of Illinois is exempt.” 35 ILCS 200/15-55(a).

While exemption provisions must be strictly construed, and taxation upheld if there is any doubt about the matter ... [citations omitted] ... there can be no doubt that plaintiff's services in improving educational standards meet the statutory test. Where the functions themselves qualify for exemption it does not matter that they are performed by a separate organization rather than the respective member institutions. It is not the policy of the law to penalize efficiency or to favor duplication of effort. If ways of doing things have become outmoded or replaced by more efficient and realistic methods of management, the law will look to substance, not to the mere forms.

Id.

This applicant's operations are, in all material respects, substantially identical to those of the applicant in Lorenz. Therefore, pursuant to the holding in Lorenz, the leasehold wherein it conducts those operates should be exempt from real estate taxation under Section 15-35 of the Property Tax Code. However, even if this were not true, the applicant's operations are also consistent with those of an "institution of public charity."

By definition, an "institution of public charity" operates to benefit an indefinite number of people in a manner that persuades them to an educational or religious conviction that benefits their general welfare or otherwise reduce the burdens of government. Crerar v. Williams, 145 Ill. 625 (1893). It also: (1) has no capital stock or shareholders; (2) earns no profits or dividends, but rather, derives its funds mainly from public and private charity and holds such funds in trust for the objects and purposes expressed in its charter; (3) dispenses charity to all who need and apply for it; (4) does not provide gain or profit in a private sense to any person connected with it; and, (5) does not appear to place obstacles of any character in the way of those who need and would avail themselves of the charitable benefits it dispenses. Methodist Old People's Home v. Korzen, 39 Ill.2d 149, 156, 157 (1968).

These factors are not to be applied mechanically or technically. DuPage County Board of Review v. Joint Comm'n on Accreditation of Healthcare Organizations, 274 Ill. App. 3d 461, 466 (2nd Dist. 1995). Rather, they are to be balanced with an overall focus on whether, and to what extent, applicant: (1) primarily serves non-exempt interests, such as those of its own dues-paying members (Rogers Park Post No. 108 v. Brenza, 8 Ill.2d 286 (1956); Morton Temple Association v. Department of Revenue, 158 Ill. App. 3d 794, 796 (3rd Dist. 1987)); or, (2) operates primarily in the public interest and lessens the State's burden. (DuPage County Board of Review v. Joint Comm'n on Accreditation of Healthcare Organizations, *supra*); Randolph Street Gallery v. Department of Revenue, 315 Ill. App.3d 1060 (1st Dist. 2000)).

There is no question that the State bears a direct and substantial burden for education. Thus, the applicant does indeed operate in the public interest and relieve government burdens by disseminating publications and providing other related services that seek to improve the educational system on all levels. Furthermore, because none of the applicant's operating revenues come from membership fees, it cannot be said that its operations serve any type of non-exempt constituency, such as that of a dues-paying membership.

More importantly, none of the applicant's revenues come from sales or other related revenues. Consequently, its operations cannot be compared to those of a commercial enterprise that fails to qualify as an "institution of public charity" because its primary function is to sell or otherwise provide services to those who can afford to pay for them. Indeed, the statistics, admitted as Applicant Ex. Nos. 8 and 13, prove that the applicant does not operate for such non-exempt, commercial purposes because its

provides a highly substantial number of its publications to the educational community that it serves at no cost.

The Board nevertheless argues that the applicant fails to qualify as an “institution of public charity” because it derives most of its operating revenues from government contracts and grants. This argument is based on the type of highly technical and literal application of the criteria set forth in Methodist Old People’s Home v. Korzen, *supra*, that our courts have consistently rejected of late. *See, e.g. DuPage County Board of Review v. Joint Comm’n on Accreditation of Healthcare Organizations, supra; Randolph Street Gallery v. Department of Revenue, supra.* Specifically, the Board’s argument fails to recognize that an entity will not forfeit its charitable status simply because it receives funds from sources other than those specified in Methodist Old People’s Home, *supra*, provided that it devotes the funds it does receive, from whatever source or sources, to public purposes. American College of Surgeons v. Korzen, 36 Ill.2d 336, 340 (1967).

The Board does not dispute that the applicant does, in fact, apply its funds to public-oriented purposes related to improving the educational system on all levels. Therefore, the fact that the applicant derives those funds primarily from governmental grants and contracts is of no legal significance herein. American College of Surgeons v. Korzen, *supra*.

Based on the above, the conclusion I must reach is that the subject leasehold was not “leased or otherwise used with a view to profit,” in violation of Sections 15-35 and 15-65(a) of the Property Tax Code during the 2002 assessment year. Therefore, the Department’s initial determination in this matter, denying said leasehold exemption from 2002 real estate taxes under those provisions, should be reversed.

WHEREFORE, for all the aforementioned reasons, it is my recommendation that the leasehold identified by DuPage County Parcel Index Number 08-06-404-014 be exempt from 2002 real estate taxes under 35 ILCS 200/15-35 and/or 35 ILCS 200/15-65(a).

Date: 9/14/04

Alan I. Marcus
Administrative Law Judge